

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

RENU R. GUPTA D.B.A. LIL ANGELS IN-HOME MONTESSORI & DAYCARE, SP 2014-DR-133 Appl. under Sect(s). 8-305 and 3-1203 of the Zoning Ordinance to permit a home child care facility. Located at 13591 Big Boulder Rd., Herndon, 20171, on approx. 2,931 sq. ft. of land zoned R-12. Dranesville District. Tax Map 16-3 ((12)) 80. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 25, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. There is a favorable staff recommendation, and the Board adopts its rationale.
3. This case is not unique in the sense that when there are applications for home child care in townhouses, there often is some conflict between neighbors regarding issues of traffic and parking, which are common to many townhouse communities. These cases are reviewed one at a time and each case is separate. With the imposition of the development conditions, the impacts on the neighbors has been satisfactorily mitigated and, in some respects, may be an improvement over the current situation without the development conditions.
4. Looking at the photo (figure 1 in the staff report), although there is a very slight bend in the street, it seems like there is plenty of distance on either side of the driveway for visibility, to see the cars backing in and out. You can also see in that photo that the way the cars are in the driveway, there is enough length in the driveway for the cars to pull in and not block the sidewalk. You can see on several of the homes on either side of this that there are cars in the driveway and there is plenty of room to walk.
5. With the imposition of the condition requiring the pick-up and drop-off to be in the driveway, the concerns about double parking and the other impacts on neighbors have been addressed. Also, looking where the parking spaces are, it will be much more convenient for a parent to pull into the driveway and go right into the door than it would be to park down at the end of the street and then get out and walk back. The Board sees applications where sometimes there are townhouses with no parking at all, maybe the spaces are not directly in front of the house, or there is no driveway, they have assigned spaces and not assigned spaces, and the employees are parking in the spaces, and other things like that. This is not that type of situation. The most likely thing for people to do is to pull in the driveway. There

- is plenty of room. There does not seem to be any trees, bushes, fences, walls, or anything in way. This is about as ordinary as it is going to get, and it can work.
6. With respect to the play area, this is an end unit. It shows a play area of 563 square feet in the rear yard, which is sufficient.
  7. The issue of using the tot lot has come up on other cases, and the resolution of that may yet to be determined, but certainly the Board's approval of this application with an outdoor play area in the rear yard does not preclude the applicant from using the tot lot if that is okay with the homeowners association. It seems not to interfere with the HOA's rights if there is some problem per their insurance or something else, if the applicant is using it. That is an issue that the Board is not going to reach. It is between the homeowner and the association.
  8. The case seems to meet the applicable standards. The Board is limiting the hours of operation and the other impacts from the use. With these conditions, it will be a better package than a by-right situation with no conditions at all.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This approval is granted to the applicant, Renu Gupta, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 13591 Big Boulder Rd., and is not transferable to other land.
2. This special permit is granted only for the home child care use indicated on the plat entitled, "Property Report, Lot 80, Section 3, Squirrel Hill," prepared by John F. Veatch, L.S., on January 26, 2005, as revised by Renu Gupta through March 21, 2014, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The hours of operation of the home child care facility shall be limited to 7:30 a.m. to 6:00 p.m., Monday through Friday.

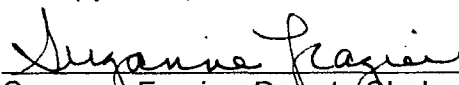
5. The dwelling that contains the child care facility shall be the primary residence of the applicant.
6. Excluding the applicant's own children, the maximum number of children on site at any one time shall be twelve.
7. A maximum of two nonresident employees, whether paid or not for their services, may be involved in the home child care facility.
8. There shall be no signage associated with the home child care facility.
9. Any portions of the dwelling associated with the home child care facility that are used as children's sleeping areas shall be located in rooms with proper emergency egress as defined by the Virginia Uniform Statewide Building Code.
10. The approval of the use is contingent upon maintenance of a state-issued family day home license that permits the number of children being cared for at the home child care facility.
11. All pick-up and drop-off of children shall take place in the driveway. There shall be no double parking, blocking of parked cars or other driveways for pick-up and drop-off. There shall be no parking in the visitor spaces associated with the use. The applicant shall notify the parents of these conditions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Ms. Theodore seconded the motion, which carried by a vote of 5-1. Mr. Beard voted against the motion. Mr. Byers was absent from the meeting.

A Copy Teste:

  
Suzanne Frazier, Deputy Clerk  
Board of Zoning Appeals